

BEFORE THE ADMINISTRATIVE HEARING COMMISSION
STATE OF MISSOURI

DIRECTOR, DEPARTMENT OF INSURANCE,)
FINANCIAL INSTITUTIONS &)
PROFESSIONAL REGISTRATION)
STATE OF MISSOURI,)

Petitioner,)

vs.)

DAREN BARNES,)

Respondent.)

Serve:)

Daren Barnes)
3324 W. Valley Vista Ct.)
Springfield, Missouri 65810)
(417) 725-4887)

Case No.:

FILED

AUG 25 2009

ADMINISTRATIVE HEARING
COMMISSION

COMPLAINT

JOHN M. HUFF, Director of the Missouri Department of Insurance, Financial Institutions, and Professional Registration, through counsel, complains and requests the Administrative Hearing Commission find that cause exists for disciplinary action against Respondent, Daren Barnes, because:

INFORMATION RELEVANT TO ALL COUNTS

1. Petitioner is the Director ("Director") of the Missouri Department of Insurance, Financial Institutions, and Professional Registration, whose duties include, pursuant to chapters 374 and 375, RSMo, the regulation, supervision, and discipline of insurance producers.
2. The Missouri Department of Insurance, Financial Institutions, and Professional Registration ("Department"), originally issued an insurance producer license to Daren Barnes

("Respondent") on December 14, 2000, license number 0122419, which has been subsequently renewed and expires on December 14, 2010.

3. Respondent was employed by Bankers Life and Casualty Company as an insurance producer from 2001 to October of 2006. Respondent was employed by Mutual of Omaha from October of 2006 through July of 2007. Respondent was employed by Ozark Financial Group in July of 2007 and was employed by Ozark Financial Group during the times relevant to this Complaint.

4. Gordon Hecker is a Missouri insurance consumer who purchased two annuities from Bankers Life and Casualty Company prior to November 9, 2007, including one Bankers Life and Casualty Company annuity from Respondent.

5. On November 9, 2007, Respondent visited with Gordon Hecker in an effort to sell Gordon Hecker a new annuity to replace the two annuities he owned through Bankers Life and Casualty Company.

6. On April 17, 2008, Respondent testified under oath in a subpoena conference at the offices of the Department of Insurance, Financial Institutions, and Professional Registration in the Harry S Truman Building, 301 West High Street, Jefferson City, Missouri 65101.

7. On February 3, 2009, Respondent testified under oath in a second subpoena conference at the offices of the Department of Insurance, Financial Institutions, and Professional Registration in the Harry S Truman Building, 301 West High Street, Jefferson City, Missouri 65101.

8. The Commission has jurisdiction over this Complaint pursuant to § 621.045, RSMo (2000).

COUNT I

9. Respondent signed the name of another to an application for insurance and to other documents related to an insurance transaction without authorization. Such is a ground for

discipline of Respondent's insurance producer license pursuant to § 375.141.1(10), RSMo (Supp. 2008).

10. The facts are as follows:

- a. On or about November 9, 2007, Respondent signed the name of Gordon Hecker without authorization to the Bankers Life and Casualty Company "Life and Annuity Client Service & Request Form" requesting the liquidation of policy number 7823976.
- b. Gordon Hecker did not sign the Bankers Life and Casualty Company "Life and Annuity Client Service & Request Form" requesting the liquidation of policy number 7823976 and did not authorize Respondent to sign the form for him.
- c. On or about November 9, 2007, Respondent signed the name of Gordon Hecker without authorization to the Bankers Life and Casualty Company "Life and Annuity Client Service & Request Form" requesting the liquidation of policy number 7738286.
- d. Gordon Hecker did not sign the Bankers Life and Casualty Company "Life and Annuity Client Service & Request Form" requesting the liquidation of policy number 7738286 and did not authorize Respondent to sign the form for him.
- e. On or about November 9, 2007, Respondent signed the name of Gordon Hecker without authorization to the Western Catholic Union "Replacement Notice for the State of Missouri Replacing Your Life Insurance Policy or Annuity Contract" form for Bankers Life and Casualty Company policy number 7823976.
- f. Gordon Hecker did not sign the Western Catholic Union "Replacement Notice for the State of Missouri Replacing Your Life Insurance Policy or Annuity Contract" form

for Bankers Life and Casualty Company policy number 7823976 and did not authorize Respondent to sign the form for him.

- g. On or about November 9, 2007, Respondent signed the name of Gordon Hecker without authorization to the Western Catholic Union “Replacement Notice for the State of Missouri Replacing Your Life Insurance Policy or Annuity Contract” form for Bankers Life and Casualty policy number 7738286.
- h. Gordon Hecker did not sign the Western Catholic Union “Replacement Notice for the State of Missouri Replacing Your Life Insurance Policy or Annuity Contract” form for Bankers Life and Casualty policy number 7738286 and did not authorize Respondent to sign the form for him.
- i. On or about November 9, 2007, Respondent signed the name of Gordon Hecker without authorization to the Western Catholic Union “Authorization to Transfer Funds” form.
- j. Gordon Hecker did not sign the Western Catholic Union “Authorization to Transfer Funds” form and did not authorize Respondent to sign the form for him.

COUNT II

11. Petitioner realleges and expressly incorporates by reference the allegations in paragraphs 9 and 10.

12. Respondent engaged in an act that operated as a fraud or deceit upon any person in connection with the offer, sale, solicitation or negotiation of insurance. Such is a violation of § 375.144, RSMo (Supp. 2008), and a ground for discipline under § 375.141.1(2), RSMo (Supp. 2008).

13. The facts are as follows:

- a. Beginning on or around November 19, 2007 through December 14, 2007, Respondent, posing as Gordon Hecker without authorization, called Bankers Life and Casualty Company multiple times, requesting information on the surrender of Mr. Hecker's annuities and requesting a "rush" on surrender of those annuities.
- b. Gordon Hecker did not authorize Respondent to call Bankers Life and Casualty Company posing as him.
- c. At the April 17, 2008 subpoena conference Respondent admitted that he made multiple telephone calls to Bankers Life and Casualty Company posing as Gordon Hecker. Respondent admitted that, during one telephone call to Bankers Life and Casualty Company, he stated, "This is Gordon Hecker calling. I requested a liquidation of my funds on a certain date, and I was calling about the status on that."

COUNT III

14. Petitioner realleges and expressly incorporates by reference the allegations in paragraphs 9 through 13.

15. Respondent, by signing the name "Gordon Hecker" to documents related to an insurance transaction without authorization and posing as Gordon Hecker in telephone calls to Bankers Life and Casualty Company, used fraudulent and dishonest practices, and demonstrated incompetence and untrustworthiness in the conduct of business in this state. Such is a ground for discipline under § 375.141.1(8), RSMo (Supp. 2008).

COUNT IV

16. Petitioner realleges and expressly incorporates by reference the allegations in paragraphs 9 through 15.

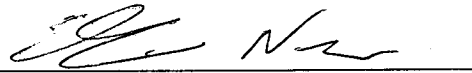
17. Respondent, while under oath, knowingly made a false statement in an investigation by the Director. Such is a violation of § 374.210.1(1), RSMo (Supp. 2008), and a ground for discipline under § 375.141.1(2), RSMo (Supp. 2008).

18. The facts are as follows:

- a. On April 17, 2008, Respondent testified, under oath, that, in his presence, Gordon Hecker signed the Bankers Life and Casualty Company “Life and Annuity Client Service & Request Form” requesting liquidation of both Gordon Hecker’s annuities and that Gordon Hecker signed the replacement forms for both annuities.
- b. On April 17, 2008, Respondent testified, under oath, “Not only did [Gordon Hecker] sign the form to liquidate [Gordon Hecker’s] account with Bankers, [Gordon Hecker] signed the replacement notice. [Gordon Hecker] signed for replacement for both annuities to liquidate both accounts, and [Gordon Hecker] signed a transfer paper all the same day.”
- c. Gordon Hecker did not sign either the forms to liquidate his annuities with Bankers Life and Casualty Company or the replacement forms for those annuities.
- d. On February 3, 2009, Respondent admitted, under oath, that he signed Gordon Hecker’s name to the forms to liquidate the annuities with Bankers Life and Casualty Company, stating, “I can see where I would go back to the office and splatter his name all over the – the request form.”
- e. On February 3, 2009, Respondent testified, under oath, in regards to the annuity forms, stating, “But I do know that any signature on here that is irregular is my fault out of laziness, out of arrogance, out of disrespect for what I do for a living.”

WHEREFORE, based on the foregoing, Petitioner respectfully requests the Commission make findings of fact and conclusions of law stating that Petitioner has established cause to discipline Respondent's insurance producer license pursuant to §§ 375.141.1(2), 375.141.1(8), and 375.141.1(10), RSMo (Supp. 2008).

Respectfully submitted,



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